



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO Lake Chesdin Camp Ground, LLC FOR Lake Chesdin Campground Facility ID No. 4-017429

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Lake Chesdin Camp Ground, LLC, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

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5. "Facility" means the physical location where the UST and/or UST system is installed and/or operated, known as Lake Chesdin Campground located at 713 Sutherland Road in Church Road, Virginia. The Facility's UST and/or UST system are owned and operated by Lake Chesdin Camp Ground, LLC, and the Facility is further identified by UST Facility ID# 4-017429.
6. "Financial Responsibility" means the ability to demonstrate that one has the financial resources available to pay for the costs of containment and cleanup and third party lawsuits in the event of a release from an UST or UST system.
7. "Form 7530-2" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.
8. "Lake Chesdin Campground" or "Lake Chesdin CG" means Lake Chesdin Camp Ground, LLC, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Lake Chesdin Camp Ground is a "person" who owns and operates the Facility.
9. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
10. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
13. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
14. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
15. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

16. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
17. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
18. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
19. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Lake Chesdin Camp Ground, LLC, ("Lake Chesdin CG"), formerly Cozy Cove, Inc., is the owner and operator of the Facility. Lake Chesdin CG stores a regulated substance in the form of gasoline in a UST at the Facility.
 2. On June 18, 2013, Department staff inspected the Facility to evaluate Cozy Cove's compliance with the requirements of the State Water Control Law and the regulations. At the time there was one (1) 3,000 gallon UST at the Facility. Based on the inspection and follow-up information Department staff made the following observations:
 - a. At the time of the inspection, there were discrepancies between the registered facility information on the 7530-2 Notification form on file and the current ownership of the tanks as reflected in the proof of financial assurance. The 7530-2 Underground Storage Tank Notification Form on file is inaccurate and the amended notification was not submitted within 30 days.
- 9 VAC 25-580-70(A) "...Any change in ownership, tank status (e.g., temporarily/permanently closed out), tank/piping systems (e.g., upgrades such as addition of corrosion protection, internal lining, release detection), substance stored (e.g., change from petroleum to hazardous substance) requires the UST

owner to submit an amended notification form within 30 days after such change/upgrade occurs or is brought into use.”

- b. At the time of the inspection, mandatory records regarding release detection for the UST and associated piping were not available for review.

9 VAC 25-580-130(A)(1) requires that owners and operators of new and existing UST systems must provide a method, or combination of methods, of release detection that can detect a release from any portion of the tank and the connected underground piping that routinely contains product.

9 VAC 25-580-130(A)(2) requires the method of release detection to be installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

9 VAC 25-580-120 and 9 VAC 25-580-180 require that records of recent compliance with release detection requirements, including results of sampling, testing, or monitoring performed in the past year, must be maintained either at the UST site and be immediately available, or at a readily available alternative site and be provided for inspection upon request. The results of any testing or monitoring done must be maintained for at least one year.

- c. At the time of inspection, there was no evidence to indicate that the tanks and associated piping were protected from corrosion.

9 VAC 25-580-50(1) & (2) require that each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below... The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below...

9 VAC 25-580-90(1) requires that all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

9VAC 25-580-90(2) requires that all UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester within six months of installation and at least every three years thereafter in accordance with a code of practice developed by a nationally recognized association.

9 VAC 25-580-90(3) requires that UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly. These systems only provide the necessary corrosion protection when in continuous operation. Such equipment shall be installed so that it cannot be inadvertently shut off.

- d. At the time of inspection, certificates for A and B operators were not provided and C operators were not identified.

9 VAC 25-580-125(B) Owners and operators of UST systems shall designate Class A, Class B, and Class C operators for each UST system or facility that has underground storage tanks.

9 VAC 25-580-125(D) When a Class A or Class B operator is replaced after August 8, 2012, a new operator shall be trained within 60 days of assuming duties for that class of operator.

9 VAC 25-580-125(F) Owners and operators of underground storage tank facilities shall prepare and maintain a list of designated Class A, Class B, and Class C operators. The list shall represent the current Class A, Class B, and Class C operators for the UST facility... A copy of the certificates of training for Class A and Class B operators shall be on file as long as each operator serves in that capacity at the facility or three years, whichever is longer, and readily available, and a copy of the facility list of Class A, Class B, and Class C operators and Class C operator instructions or procedures shall be kept onsite and immediately available for manned UST facilities and readily available for unmanned facilities.

- 3. On June 19, 2013, the Department issued a deficiency letter to the Facility as a result of the June 18, 2013 inspection. The deficiency letter required the following from the Facility by July 19, 2013:
 - a. Submit a UST registration form reflecting the company as the owner of the UST.
 - b. Provide records of release detection for the UST and associated piping for the last 2 months.
 - c. Provide a copy of the most recent Cathodic Protection System Evaluation and, if the system is an impressed current system, a copy of the 60 Day Rectifier Log.
 - d. Provide a copy of the training certificate for A, B and C level training
 - e. Submit an explanation on the purpose and design of the pipe next to the dispenser closest to the dock, and an explanation as to why the nozzle is kept in the pipe.
- 4. On September 18, 2013, based on the June 18, 2013, inspection, and the failure to comply with the terms of the June 19, 2013 deficiency letter, the Department issued Notice of

Violation No. 13-09-PRO-502 to Cozy Cove for the violations described in paragraphs C(8) and (9), above.

5. During a subsequent file review, Department staff made the following observation:

- a. Financial responsibility documentation was not available.

9 VAC 25-590-40(A) requires that owners or operators of UST systems must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

9 VAC 25-590-160 requires evidence of financial assurance mechanisms used to demonstrate financial responsibility must be maintained at the UST site or at the owner or operator's place of work in the Commonwealth and be made available upon request.

6. On April 22, 2015, Department staff met with representatives of Lake Chesdin CG to discuss the violations.
7. Based on the results of the June 12, 2009 and June 18, 2013 inspections, and the April 22, 2015, meeting, the Board concludes that Lake Chesdin Camp Ground, LLC has violated 9 VAC 25-580-70(A), 9 VAC 25-580-50, 9 VAC 25-580-90(1), 9 VAC 25-580-90(2), 9 VAC 25-580-90(3), 9 VAC 25-580-130(A)(1), 9 VAC 25-580-130(A)(2), 9 VAC 25-580-120, 9 VAC 25-580-180, 9 VAC 25-580-125(B), 9 VAC 25-580-125(D), 9 VAC 25-580-125(F), 9 VAC 25-590-40, and 9 VAC 25-590-160, as described in paragraphs C(2) and C(8), above.
8. In order for Lake Chesdin CG to return to compliance, DEQ staff and representatives of Lake Chesdin CG have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Lake Chesdin Camp Ground, LLC, and Lake Chesdin Camp Ground, LLC, agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$5,040 in settlement of the violations cited in this Order.
3. Payment shall be made in accordance with the following schedule:

Due Date	Amount
Upon Execution of Order	\$1,260

July 1, 2016	\$1,260
October 1, 2016	\$1,260
January 1, 2017	\$1,260

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Lake Chesdin Camp Ground, LLC, shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Lake Chesdin Camp Ground, LLC shall be liable for attorneys' fees of 30% of the amount outstanding

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Lake Chesdin Camp Ground, LLC, for good cause shown by Lake Chesdin Camp Ground, LLC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Lake Chesdin Camp Ground, LLC, admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Lake Chesdin Camp Ground, LLC, consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order
5. Lake Chesdin Camp Ground, LLC, declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by Lake Chesdin Camp Ground, LLC, to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Lake Chesdin Camp Ground, LLC, shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Lake Chesdin Camp Ground, LLC, shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Lake Chesdin Camp Ground, LLC, shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Lake Chesdin Camp Ground, LLC,. Nevertheless, Lake Chesdin Camp Ground, LLC, agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Lake Chesdin Camp Ground, LLC, has completed all of the requirements of the Order;
- b. Lake Chesdin Camp Ground, LLC, petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Lake Chesdin Camp Ground, LLC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Lake Chesdin Camp Ground, LLC, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Lake Chesdin Camp Ground, LLC, and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Lake Chesdin Camp Ground, LLC, certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Lake Chesdin Camp Ground, LLC, to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Lake Chesdin Camp Ground, LLC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Lake Chesdin Camp Ground, LLC, voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 16 day of May, 2016.



Jefferson Reynolds, Director
Division of Enforcement
Department of Environmental Quality

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Lake Chesdin Camp Ground, LLC, voluntarily agrees to the issuance of this Order.

Date: 05/16/16 By: Edmund [Signature] owner
(Person) (Title)
Lake Chesdin Camp Ground, LLC

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2016, by _____ who is _____ of Lake Chesdin Camp Ground, LLC, on behalf of the company.

Notary Public

Registration No. _____

My commission expires: _____

Notary seal:

APPENDIX A SCHEDULE OF COMPLIANCE

Lake Chesdin Camp Ground, LLC, shall:

1. Complete work to bring the UST system at the Facility into compliance with the UST: Technical Standards and Corrective Action Requirements Regulation, 9 VAC 25-580-10 *et seq.*; or complete closure of the UST by July 1, 2016.

In order to return to compliance with the 9 VAC 25-580-10 *et seq.*, Lake Chesdin Camp Ground, LLC, shall:

2. Shall submit a 7530-2 UST Notification form registering the 3,000 Gallon UST at the Facility by July 1, 2016.
3. Shall submit documentation verifying that an appropriate form of monthly release detection has been initiated for the tank and piping by July 1, 2016.
4. Shall submit current, passing results for six consecutive months of monthly release detection monitoring for the UST by no later than July 1, 2016, and continuing monthly on August 1, 2016, September 1, 2016, October 1, 2016, September 1, 2016 and October 1, 2016.
5. Shall submit current, valid, passing 3-year cathodic protection test results for the UST by no later than July 1, 2016.
6. Shall establish a financial assurance mechanism that will satisfy applicable requirements of the Petroleum Underground Storage Tank Financial Responsibility Regulations, 9 VAC 25-590-10 *et seq.*, and submit sufficient documentation by no later than July 1, 2016.
7. Submit an explanation on the purpose and design of the pipe next to the dispenser closest to the dock, and an explanation as to why the nozzle is kept in the pipe.
8. Submit all requirements of Appendix A of this Order to:

Russell Deppe
Land Protection Enforcement Manager
VA DEQ Central Office
P.O. Box 1105 Richmond, VA 23218
804-698-4251
Russell.deppe@deq.virginia.gov